

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 15, 2009

TO: Honorable Joe Deshotel, Chair, House Committee on Business & Industry

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3871 by Veasey (Relating to the operation of the Texas Residential Construction Commission; providing an administrative penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3871, As Introduced: an impact of \$0 through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from Recovery Fund
2010	\$4,725,000
2011	\$4,602,000
2012	\$4,604,000
2013	\$4,606,000
2014	\$4,609,000

Fiscal Analysis

The bill would amend the Property Code to establish a governor-appointed commissioner of the Texas Residential Construction Commission (TRCC) who serves as the executive director and the presiding officer of the commission.

The bill would increase the filing fee for a builder original registration to \$750 from an amount not to exceed \$500 under current law and increase the fee for a registration renewal to \$500 from an amount not to exceed \$300 under current law. The bill would increase the fees for a residential construction arbitrator initial certification and renewal to \$100 from an amount not to exceed \$50 under current law; set the annual application fees for a third-party inspector at \$100 rather than an amount required by TRCC rule; and set the annual application fee for a third-party warranty company at \$500 rather than an amount required by TRCC rule.

The bill would require TRCC to maintain a recovery fund to pay for certain home repairs for a homeowner who is unable to obtain repair of a construction defect in accordance with a TRCC recommendation or appeals ruling or obtain other relief for the defect as provided by law. The bill would require TRCC to deposit to the fund all fines collected by TRCC and half of the amount of the fees and other non-fine income collected by the agency during the fiscal year that has not been spent at the end of that fiscal year. The bill would authorize TRCC to pay from the fund 25 to 50 percent of the estimated repair costs as the commission determines appropriate based on the availability of money in the fund; or contract with a third-party vendor to make repairs and pay the vendor from the fund.

The bill would allow a homeowner to request that TRCC authorize the filing of an action against a builder who does not make a repair within 45 days of a third-party inspector recommendation or a ruling of an appeal panel. The bill would require TRCC to adopt rules under which a low-income homeowner may qualify for legal assistance from the commission in pursuing an action filed by the homeowner.

The bill would take effect on September 1, 2009.

Methodology

Based on the information and analysis provided by TRCC and the Comptroller's office, it is assumed the provisions of the bill that increase the registration application and renewal fees would result in a revenue gain to the state. Based on the analysis provided by the Comptroller's office, it is assumed the bill would create the Recovery Fund in the treasury outside of the General Revenue Fund. Therefore, it is assumed the deposit to the Recovery Fund of unspent fee and other non-fine income at the end of each fiscal year that would normally be retained as unappropriated revenue in the General Revenue Fund could result in a gain to the Recovery Fund and a corresponding loss to the General Revenue Fund.

Section 2 of the Special Provisions Relating to All Regulatory Agencies in Article VIII of the 2008-09 General Appropriations Act (Sec. 2, Article VIII Special Provisions) establishes the intent of the Legislature that TRCC (and certain other agencies) is to generate fees sufficient to cover direct appropriations to the agency as well as certain other direct and indirect costs appropriated elsewhere in the Act; otherwise the Legislative Budget Board and the Governor would be authorized to direct the Comptroller to reduce the agency's appropriation authority to be within the amount of revenue expected to be available. This provision aligns with the enabling statutes of TRCC and every other agency mentioned in that section. Therefore, for the purposes of this analysis it is assumed current (fiscal year 2009) TRCC non-fine fee revenues are equal to the agency's current level of expenditures and other direct and indirect costs; and any fee revenue gains realized as a result of the provisions of the bill would be deposited to the new Recovery Fund.

Based on the analysis of TRCC, it is assumed any costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 370 Residential Construction Commission

LBB Staff: JOB, JRO, MW, TG